

PT 95-55  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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LIVING BREAD MINISTRIES and )  
ALFRED J. PETRONE ) Docket # 92-16-1523  
Applicant ) Parcel Index # 07-15-100-020-0000  
 )  
v. ) Barbara S. Rowe  
 ) Administrative Law Judge  
THE DEPARTMENT OF REVENUE )  
OF THE STATE OF ILLINOIS )  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: George J. Behrens, Attorney for Applicant

SYNOPSIS: The Cook County Board of Review/Appeals filed a Religious Application for Property Tax Exemption To Board of Review/Appeals - Statement of Facts with the Illinois Department of Revenue (the "Department") for Living Bread Ministries and Alfred J. Petrone (the "Applicant"). The Department denied the application finding that the property was not in exempt ownership and use. The Applicant filed a protest to the findings of the Department and requested a hearing in the matter. At the hearing it was established that the property is leased from Alfred J. Petrone to Living Bread Ministries. It is recommended that the decision of the Director of the Department be that the parcel was not in exempt ownership and use for the taxable year in question.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that Cook County permanent parcel index number 07-15-100-020-0000 should not be exempt from property tax for the 1992 assessment year was established by admission into evidence of Dept. Ex. Nos. 1 - 6.

2. Alfred J. Petrone has possession of the property and is

purchasing it pursuant to Articles of Agreement for Deed between himself and the Suburban Trust and Savings Bank. The agreement states that the final payment is due on the first of September 1993 in the amount of \$428,466.89. (Dept. Ex. No. 4)

3. Beginning May 1, 1991, Alfred J. Petrone leased a portion of the property, approximately 3,802 square feet, to Living Bread Ministries for \$3,854 per month. The lease was renewable for three years. (Dept. Ex. No. 2)

4. Living Bread Ministries is incorporated under the General Not-For-Profit Corporation Act of the State of Illinois. (Dept. Ex. No. 2)

5. Living Bread Ministries is a religious organization that has an average attendance of 40 to 50 people at the services on Sunday Morning. The church's actual membership is approximately 28 to 30 people. (Tr. p. 16)

6. Living Bread Ministries, as a nondenominational religious organization, teaches that the salvation of mankind is Jesus Christ and the church promotes his full gospel. The church is not affiliated with any national denominational church. (Dept. Ex. No. 2; Tr. pp. 16-17)

7. Living Bread Ministries used the portion of the property that it leased for church services. The services took place on Sundays for 10:00 a.m. worship, Sunday evenings for 6 p.m. worship and Wednesday evenings for 7 p.m. worship. (Tr. p. 22)

8. Living Bread Ministries, was unable to pay the full amount of rent agreed upon the lease during the taxable year in question. (Tr. pp. 28-29)

CONCLUSIONS OF LAW: Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and

horticultural societies, and for school, religious, cemetery and charitable purposes.

The Statutes of Illinois exempt certain property from taxation. In particular, 35 ILCS 19.2 (State Bar Edition) exempts in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, including all such property owned by churches or religious institutions.....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. *People ex. rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1941). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

The Second District in *American National Bank and Trust Co. v. Department of Revenue*, 242 Ill.App.3d 716 (1993), held that property leased by a religious organization (Zion) from a private, for-profit party (Jack Kristof) and used for religious purposes is not exempt under Section 19.2. Section 19.2 does not mention the ownership of property as a requirement for exempt status, however the property must not be "leased or otherwise used with a view to profit". In *American National*, the owner leased the land, building, parsonage, and parking lot to Zion for a profit. The court found that even though Zion intended to purchase the property, was liable for taxes and used the property for religious purposes, the owner of the property used the property for a profit. 242 Ill.App.3d 716, 724. The First District Appellate Court upheld that reasoning in *Victory Christian Church et al. v. Department of Revenue*, 264 Ill.App.3d 919 (First District,

1994).

The statutory language of 35 ILCS 205/19.2 is very clear. All property used exclusively for religious purposes and not leased or otherwise used with a view to profit is exempt. The property at issue is owned by a trust. Alfred J. Petrone is purchasing it pursuant to Articles of Agreement for Deed. Just because Living Bread Ministries was not able to make the lease payments, as agreed to between Alfred J. Petrone and Living Bread Ministries, does not mean that the property was not leased for profit.

I therefore find that the property in question was leased by Alfred J. Petrone to Living Bread Ministries with a view to Alfred J. Petrone gaining a profit. I therefore recommend that Cook County parcel index number 07-15-100-020-0000 remain on the tax rolls and be assessed to the Applicant.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge

June 6, 1995